

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

U.S. Circuit, Inc.,
A California Corporation,
1526 Sterling Court
Escondido, California 92029
San Diego County

ID No. CAD 980 673 347

Respondent.

Docket HWCA 20040521

ENFORCEMENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

1.1. Parties. The State Department of Toxic Substances Control (Department) issues this Enforcement Order (Order) to U.S. Circuit, Inc., a California Corporation (Respondent).

1.2. Facility. Respondent generates and treats hazardous waste at the following site: 1526 Sterling Court, Escondido, California 92029 (Facility) in San Diego County under EPA ID number CAD 980 673 347.

1.3. Generator. The Department authorized Respondent to manage hazardous waste under Permit by Rule (PBR) on August 2, 1993. The Respondent generates the following hazardous waste: waste waters containing metals (copper, nickel, silver, and tin) and gold cyanide from electroplating operations, waste water treatment sludge (metal hydroxide sludge), spent nickel filters, solder waste, acids, caustics, and solvents.

1.4. Jurisdiction. Section 25187 of the Health and Safety authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirements issued or adopted pursuant thereto.

1.5. Exhibits. All exhibits attached to this Order are incorporated herein by this reference (Attachment 1).

DETERMINATION OF VIOLATIONS

2. The Department has determined that:

2.1.1. The Respondent violated Health and Safety Code section 25201.5, subd. (a), in that on or about October 15 -16, 2003, Respondent treated greater than 55-gallons or 500 lbs of hazardous waste, the maximum allowed for the conditionally exempt small quantity treatment (CESQT) tier. The Respondent reported treating 400-gallons per month of spent film stripper in the unit FTU1 under a CESQT tier. A facility is eligible for the CESQT tier if the waste volume treated is a maximum of 55-gallons or 500 lbs for the whole facility and if no other authorization is required for any other activity. The Respondent had two other treatment units and thus could not qualify to operate under the CESQT tier.

2.1.2. The Respondent violated California Code of Regulations, title 22, section 66262.11, subdivisions (b) & (c), in that on or about October 15-16, 2003, Respondent failed to make a hazardous waste determination for the spent solder flux. Spent solder flux was sent offsite for disposal as used oil. The spent solder flux did not meet the definition of used oil as per Health and Safety Code, section 25250.a, subsection (1)(A).

2.1.3. The Respondent violated Health and Safety Code, section 25179.5, subdivisions (b)(1) and California Code of Regulations, title 22, section 66268.1, et al. in that on or about October 15-16, 2003, Respondent failed to determine if the spent solder flux was subject to land disposal restrictions (LDR) and if the treatment standards had been met prior to shipping the waste offsite.

2.1.4. The Respondent violated California Code of Regulations, title 22, section 67450.3, subdivisions (c)(8)(C) and (c)(9)(A), and California Code of Regulations, title 22, section 66262.34, subdivision (a)(4), which incorporates by reference section 66265.16, subdivision (d)(3), in that on or about October 15-16, 2003, Respondent failed to have a written training plan specific to the job for employees and failed to provide an initial training to the employees involved in hazardous waste activities.

2.1.5. The Respondent violated California Code of Regulations, title 22, section 67450.3, subdivision (c)(9)(F) in that on or about October 15-16, 2003, Respondent failed to have an independent, qualified, professional engineer (P.E.),

registered in California in accordance with section 66270.11(d), assess the waste treatment tank system's integrity and the secondary containment system's integrity, and failed to sign and obtain a certification that the tanks met all applicable regulatory requirements within the preceding five (5) years. The tank and secondary containment assessments indicated that the P.E. assessment and certification omitted certain items noted in the list of exceptions to the visual inspection, and therefore was incomplete and insufficient to meet the regulatory requirements.

2.1.6. The Respondent violated California Code of Regulations, title 22, section 67450.3, subdivision (c)(9)(F), and section 66265.195, subdivisions (a) and (c) and section 66262.34, subdivision (a)(1)(A) in that on or about October 15-16, 2003, Respondent failed to conduct complete daily tank inspections for the two waste accumulation tanks and the treatment tank system and to maintain a complete log of the inspections for the tanks.

2.1.7 The Respondent violated California Code of Regulations, title 22, section 67383.3 in that on or about October 15-16, 2003, Respondent failed to satisfy the Conditionally Exempt Small Quantity Generator (CESQG) treatment requirements for a tank closure when Respondent failed to properly clean, shred, and dispose as required for a 400-gallon cylindrical poly tank in October 2001, and failed to notify the San Diego County Certified Unified Program Agency (CUPA). The tank should have been authorized and closed under the PBR tier rather than under the CESQT tier. Respondent replaced the 400-gallon cylindrical tank with a 400-gallon rectangular tank in October 2001. A facility operating under the PBR tier must submit a certificate of closure signed by a P.E. and the owner and operator, whereas the CESQT tier requires only written notice to the San Diego County CUPA.

SCHEDULE FOR COMPLIANCE

3. Based on the foregoing Determination of Violation, IT IS HEREBY ORDERED THAT:

3.1.1. Respondent has corrected the violation described in paragraph 2.1.1. as of December 22, 2003. No further corrective action or submittal is required for this violation.

3.1.2. Respondent has corrected the violations described in paragraphs 2.1.2, 2.1.3, and 2.1.6 as of February 17, 2004. No further corrective action or submittal is required for these violations.

3.1.3. Within 30 days of completing the hazardous waste training Modules I, II, III, IV, and V from the California Compliance School (CCS), Respondent must submit to the Department legible copies of the Certificates of Satisfactory Completion for at least two employees.

3.1.4. Within 30 days of the effective date of this Order the Respondent shall submit to the Department a complete tank assessment reviewed and certified by an independent, qualified P.E., registered in California in accordance with section 66270.11(d), and signed by the owner/operator, that attests to the tank system integrity of all of the waste accumulation and PBR treatment tanks. See Attachment 1 for additional clarification.

3.1.5. The Respondent shall follow the regulatory requirements for making any changes to the treatment systems in the future, which includes notification to the San Diego County CUPA.

3.2. Submittals. All submittals from the Respondent pursuant to this order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

and

Mr. Mike Dorsey, Chief
Hazardous Materials Division
San Diego County
Department of Environmental Health
1255 Imperial Avenue, 3rd floor
P.O. Box 129261
San Diego, California 92112-9261

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department

regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of the obligation to obtain such formal approvals as may be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified, or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of the Stop Work Order.

3.7. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access: Access to the site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The

Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Order.

3.9. Data and Document Availability. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf in any way pertaining to work undertaken pursuant to this Order. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either comply with that request, deliver the documents to the Department, or permit the Department to copy the documents prior to destruction. Respondent shall notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order.

3.10. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to the Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Request: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may,

prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

OTHER PROVISIONS

4.1. Additional Enforcement Actions: By issuance of this Order, the Department does not waive the right to take further enforcement actions.

4.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.3. Parties Bound: This Order shall apply to and be binding upon Respondent, and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.4. Time Periods. "Days" for purposes of this Order means calendar days.

4.5. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

PENALTY

5. Based on the foregoing DETERMINATION OF VIOLATIONS, the Department sets the amount of Respondent's penalty at \$34,594. Payment is due within 30 days from the effective date of the Order. Respondent's check shall be made payable to the Department of Toxic Substances Control, and shall identify the Respondent and Docket Number, as shown in the heading of this case.

Respondent shall deliver the penalty payment with the attached voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent to:

Mr. Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200

RIGHT TO A HEARING

6. Respondent may request a hearing to challenge the Order. Appeal procedures are described in the attached Statement to Respondent.

EFFECTIVE DATE

7. This Order is final and effective twenty days from the date of mailing, which is the date of the cover letter transmitting the Order to Respondent, unless Respondent requests a hearing within the twenty-day period.

Date of Issuance: June 14, 2005

Original signed by Charles A. McLaughlin
Charles A. McLaughlin, Chief
State Oversight and Enforcement Branch
Statewide Compliance Division
Department of Toxic Substances Control